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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/261,197	03/03/1999	BRIAN E. MCBRIDE	53921/56	7444

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BLAKE CASSELS & GRAYDON
INTELLECTUAL PROPERTY GROUP
BOX 25 COMMERCE COURT WEST
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CANADA

EXAMINER

STEVENS, ROBERTA A

ART UNIT PAPER NUMBER

2665

DATE MAILED: 11/04/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

AIR MAIL

Office Action Summary

Application No.

09/261,197

Applicant(s)

MCBRIDE, BRIAN E.

Examiner

Roberta A Stevens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,12,13,15-37,39,40 and 43-46 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,3-10,12,13,15-37,39,40 and 43-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5-10, 12, 13, 15, 17-22, 24-33, 34-37, 40 and 43-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiltner (U.S. 5119368).

3. Regarding claims 1 and 6, Hiltner teaches (figure 1, 3-4 and 6-8) a method and apparatus for generating digital traffic for use in testing a multi-port communications device comprising: generating a reference pattern defining the digital traffic and generating a plurality of traffic streams from the reference pattern, whereby the plural traffic streams are used for loading respective input ports of the communications device; and introducing a plurality of phase delays among the plurality of traffic streams when compared to the reference digital traffic pattern.

4. Regarding claim 3, 7, 9, 12, 15, 19 and 21, Hiltner teaches (figure 4) the communication device effects statistical multiplexing amongst the plurality of traffic streams

5. Regarding claims 4 and 16, Hiltner teaches (figure 4) the traffic streams are continuous digital data.

6. Regarding claims 5, 17, 31-32, 37 and 43, Hiltner teaches (column 2, line 59 –68) the plurality of traffic streams are ATM.

7. Regarding claims 8 and 18, Hiltner teaches (figures 1 and 7-9) an apparatus and method for loading a multi-port communication device with digital traffic, comprising: generating from a digital traffic stream a plurality of digital traffic streams having identical data content thereto;

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and providing the plurality of digital traffic streams with a plurality of phase delays therebetween to input ports of the communication device.

8. Regarding claim 10 and 13, Hiltner teaches (figures 1 and 7-9) an apparatus and method for operating a digital traffic replicating device for use in testing a multi-port communication device, comprising: receiving an input digital traffic streams; and generating a plurality of output digital stream from the input digital traffic streams, wherein a phase delay is introduced to at least one of the plurality of output digital traffic streams; and wherein the plurality of output digital traffic stream have traffic patterns which are replicas of the input digital traffic streams.

9. Regarding claim 20, Hiltner teaches (figures 1 and 7-9) an apparatus for loading a multi-port communications device with digital traffic, comprising: means for generating from a digital traffic stream a plurality of digital traffic streams having identical data thereto; and means for providing the plurality of digital traffic streams to input ports of the communication device with a phase delay introduced to at least one of the plurality of digital traffic streams.

10. Regarding claim 22 and 44, Hiltner teaches (figures 1 and 7-9) a digital data stream replicating device, comprising: an input port for receiving an input continuous digital data stream comprising input data blocks at an input transmission rate; broadcast means for replicating the input continuous digital data stream into N streams of replicated continuous digital data streams; N output ports for transmitting the plurality of replicated continuous data streams at output transmission rates, each output transmission rate at least equal to the input transmission rate; and delay means for introducing a predetermined delay for each replicated data stream with respect to the input data stream.

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11. Regarding claims 24-30, 34-36 and 40, Hiltner teaches (figure 4) the delay means comprising: a memory having N FIFO logical buffers established therein, each logical buffer being associated with on digital data stream of replicated data, wherein when a logical buffer of the N FIFO buffers is full, data blocks associated with the buffer are forwarded to an output port of the N output ports associated with the buffer, such that the delay provided to a digital data stream transmitted through the output port correlates to a length of the buffer.

12. Regarding claims 33 and 45, Hiltner teaches (figures 1, 4 and 7-9) a digital data stream replicating device for providing data input patterns to a communication device, comprising: an input port for receiving a data stream comprising input data blocks at an input rate; a memory; N output ports having an output transmission rate at least equal to the input transmission rate; processing means connected between the input port and the N output ports, for establishing N FIFO buffers in the memory and associating the blocks with the N buffers so as to replicate the input data blocks, each buffer associated with only one output port; and scheduling means for forwarding data blocks through the corresponding output port when the given buffer is full.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 23, 39 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiltner.

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15. As mentioned above Hiltner teaches all of the limitations of claims 22, 33 and 45.
16. Hiltner does not teach introducing idle/empty data blocks. However it would have been obvious to one of ordinary skill in the art to adapt idle/empty blocks when the output rate is greater than the input rate to compensate for the difference in rate.

Conclusion

17. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Roberta Stevens whose telephone number is (703) 308-6607. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:30 p.m.
18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor can be reached on (703) 308-6602.
19. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-3900.
20. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to: (703) 746-9515

For informal draft communications, please label "PROPOSED" or "DRAFT"

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,

Arlington, VA. Sixth Floor (Receptionist).

Roberta A. Stevens
Patent Examiner
10-31-03



STEVEN H. D NGUYEN
PRIMARY EXAMINER